

from a default order, an accelerated decision or decision to dismiss, or an initial decision rendered after an evidentiary hearing. Appeals from other orders or rulings shall lie only if the Presiding Officer, upon motion of a party, certifies such orders or rulings to the Director on appeal. Requests for such certification shall be filed in writing within six (6) days of notice of the ruling or service of the order, and shall state briefly the grounds to be relied upon on appeal.

(b) *Availability of interlocutory appeal.* The Presiding Officer may certify any ruling for appeal to the Director when (1) the order or ruling involves an important question of law or policy and there is substantial grounds for difference of opinion; and (2) either (i) an immediate appeal from the order or ruling will materially advance the ultimate resolution of the proceeding, or (ii) review after the final order is issued will be inadequate or ineffective.

(c) *Decision.* If the Director or the General Counsel takes no action within thirty (30) days of the certification, the appeal is dismissed. If the Director or the General Counsel decides to hear the interlocutory appeal, he shall make and transmit his findings and conclusions to the Presiding Officer. When the Presiding Officer declines to certify an order or ruling to the Director on interlocutory appeal, it may be reviewed by the Director only upon appeal from the initial decision.

(d) *Stay of proceedings.* The Presiding Officer may stay the proceedings for an interlocutory appeal. Proceedings will not be stayed except in extraordinary circumstances. Where the Presiding Officer grants a stay of more than thirty (30) days, such stay must be separately approved by the Director.

§ 672.22 Appeal from or review of initial decision.

(a) *Notice of appeal.* Any party may appeal any adverse initial decision of the Presiding Officer by filing a notice of appeal and an accompanying appellate brief with the Hearing Clerk and upon all other parties and amicus curiae within twenty (20) days after the initial decision is served upon the parties. The notice of appeal shall set forth alternative findings of fact, alter-

native conclusions regarding issues of law or discretion, and a proposed order together with relevant references to the record and the initial decision. The appellant's brief shall contain a statement of the issues presented for review, argument on the issues presented, and a short conclusion stating the precise relief sought, together with appropriate references to the record. Within twenty (20) days of the service of notices of appeal and briefs, any other party or amicus curiae may file with the Hearing Clerk a reply brief responding to argument raised by the appellant, together with references to the relevant portions of the record, initial decision, or opposing brief. Reply briefs shall be limited to the scope of the appeal brief.

(b) *Sua sponte review by the Director.* Whenever the Director determines sua sponte to review an initial decision, the Hearing Clerk shall serve notice of such intention on the parties within forty-five (45) days after the initial decision is served upon the parties. The notice shall include a statement of issues to be briefed by the parties and a time schedule for the service and filing of briefs.

(c) *Scope of appeal or review.* The appeal of the initial decision shall be limited to those issues raised by the parties during the course of the proceeding. If the Director determines that issues raised, but not appealed by the parties, should be argued, he shall give the parties or their representatives written notice of such determination to permit preparation of adequate argument. Nothing herein shall prohibit the Director from remanding the case to the Presiding Officer for further proceedings.

(d) *Argument.* The Director may, upon request of a party or sua sponte, assign a time and place for oral argument.

§ 672.23 Final order on appeal.

(a) *Contents of the final order.* When an appeal has been taken or the Director issues a notice of intent to conduct review sua sponte, the Director shall issue a final order as soon as practicable after the filing of all appellate briefs or oral argument. The Director shall adopt, modify or set aside the findings and conclusions contained in